

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **September 9, 2003**

AGENDA ITEM NO.: 23

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: Rental Property Inspection Program Ordinance and Code Enforcement Fee Schedule Amendments

RECOMMENDATION: Authorize a public hearing on proposals to: 1) Amend Lynchburg City Code, Chapter 11, Building, Division 3, Rental Property Registration and Inspections, to facilitate initiation of the rental inspection program. 2) Amend the Code Enforcement Fees to change the Rental Property Code Enforcement from \$25.00 per dwelling unit to \$18 per dwelling unit and add a permit cancellation fee of \$40 to cover administrative costs for permits that are cancelled prior to work beginning. All changes to become effective October 1, 2003 or as soon thereafter as practical.

SUMMARY: Staff has continued to work to amend the rental property inspection ordinance to address various concerns. The proposed ordinance with amendments highlighted by overstrike and underline is attached. It is believed that the revised ordinance is consistent with state enabling legislation and adopted building codes. An issue that may remain in contention is the proposed code enforcement fee. As proposed, the fee will cover annual registration and periodic inspection of rental property. An alternative to the fee would be to pay the cost of the rental inspection program through a General Fund appropriation. If Council wishes to cover the program cost through fees, please note that the proposed fee has been reduced from \$25 to \$18 per dwelling unit.

Because this matter has generated a high level of interest at both the local and state level, a public hearing to receive comment on the proposals is recommended.

PRIOR ACTIONS: February 11, 2003, initial program amendments adopted by Council.
May 27, 2003 Council work session.
June 24, 2003 Council work session.

FISCAL IMPACT: The annual cost of the rental inspection program is estimated to be \$65,000. This would be offset by an estimated fee revenue of \$65,000. An alternative would be to fund the program in the first year from the General Fund Reserve for Contingencies.

CONTACTS: Rachel Flynn (847-1435 ext. 253), Karl Cooler (847-1572 ext. 248)

ATTACHMENTS: Ordinance Amending City Code Chapter 11, Division 3.
Resolution revising the Code Enforcement Fee Schedule, effective October 1, 2003
(if Council wishes to proceed without the recommended public hearing)

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT SECTIONS 11-62, 11-62.1, 11-62.2, 11-62.3, 11-62.4, 11-62.5, 11-62.6, 11-62.7, 11-62.8, 11-62.9, 11-62.10, 11-62.11 AND 11-62.12 OF THE CODE OF THE CITY OF LYNCHBURG, 1981, THE AMENDED SECTION RELATING TO RENTAL PROPERTY REGISTRATION AND INSPECTIONS.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. THAT SECTIONS 11-62, 11-62.1, 11-62.2, 11-62.3, 11-62.4, 11-62.5, 11-62.6, 11-62.7, 11-62.8, 11-62.9, 11-62.10, 11-62.11 AND 11-62.12 OF THE CODE OF THE CITY OF LYNCHBURG, 1981, BE AND THE SAME ARE HEREBY AMENDED AND REENACTED AS FOLLOWS:

DIVISION 3. RENTAL PROPERTY REGISTRATION AND INSPECTIONS.

Sec. 11-62. Purpose and intent.

The city council finds that residential rental housing, when not the subject of regular inspections to ensure compliance with applicable occupancy, building maintenance, and property maintenance regulations, may become unsafe, a public nuisance, and unfit for human habitation. Residential rental housing is subject to overcrowding, structural deterioration, and an overall neglected appearance. These conditions can lead to a decline in neighborhood quality of life, neighborhood appearance, and the value of real estate. This division is adopted to ~~ensure~~ protect the public health, safety and welfare in rental dwellings and dwelling units located within those areas of the city determined by city council herein to be in need of a special program of housing inspections. This program is designed and intended to prevent property deterioration and neighborhood blight in designated areas by requiring proper building maintenance and continued compliance with applicable building regulations.

Sec. 11-62.1. Definitions.

(a) Generally. Certain words and phrases used in this division shall have the meanings prescribed to them by this section, except in the instances where the context clearly indicates a different meaning.

(b) Building official. The officer or other designated authority charged with the administration and enforcement of this ordinance and the USBC, or a duly authorized representative.

(c) Certificate of compliance. A certificate of compliance is a written document issued by the inspections division confirming that a dwelling unit has been inspected. A certificate of compliance will be issued after a dwelling unit has been inspected by the inspections division and has no violations outstanding. The unit may be rented.

(d) Certificate of registration. A certificate of registration is a written document issued by the inspections division confirming that a rental property has been properly registered as required by section 11-62.3 of this division. The building official will issue a certificate of registration after the inspections division has received a completed registration form and accompanying certification that the property meets the minimum habitable standards. A certificate of registration will be issued in place of a certificate of compliance where a rental dwelling unit has not been inspected by City of Lynchburg inspectors. The unit may be rented.

(e) Dwelling unit. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

(f) Inspections division. The section of the department of community planning and development responsible for enforcement of the property maintenance code of the City of Lynchburg.

(g) Minimum habitable standards. The requirements for compliance as outlined in Part III, USBC, Maintenance of Existing Structures, Part IV, USBC, Technical Amendments, and Chapters 3 through 7 of the BOCA National Property Maintenance Code, 1996 Edition as adopted by the USBC.

(h) Owner. The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee or lessee in control of a building or structure.

(i) Property. The word "property" shall mean dwelling units which are leased or rented in whole or in part, to tenants for valuable consideration. The word "property" shall include dwelling units occupied under a lease/purchase agreement.

(j) USBC. Virginia Uniform Statewide Building Code.

Sec. 11-62.2. Effective date and applicability.

In order to protect the public health, safety and welfare the areas described in this section are designated as conservation and rehabilitation areas as provided by Section 36-105 of the Code of Virginia for the purpose of conducting inspections at specific time intervals in order to determine that the buildings are in compliance with current building code regulations. The provisions of this division shall be applicable to all rental dwelling units, whether occupied or not, that are located in the following areas of the city:

~~That area of the city designated as census tract #2.03 by the 2000 Census Data.~~

That area of the city designated as census tract #4 by the 2000 Census Data.

That area of the city designated as census tract #5.00 by the 2000 Census Data.

That area of the city designated as census tract #6 by the 2000 Census Data.

That area of the city designated as census tract #7 by the 2000 Census Data.

That area of the city designated as census tract #11 by the 2000 Census Data.

That area of the city designated as census tract #12 by the 2000 Census Data.

That area of the city designated as census tract #13 by the 2000 Census Data.

The census tracts identified above encompass that area of the city beginning at the eastern corporate limit of the city, thence northwest along the James River and the corporate limits of the city to the Norfolk Southern Railway tracks near Riverside Park, thence south along said tracks to Blackwater Creek, northwest along Blackwater Creek to an unnamed tributary creek, along said tributary southwest to the intersection of Page Street and Hillcrest Avenue, northwest on Page Street to Tate Springs Road following said road southeast to Langhorne Road; continuing on Langhorne Road southeast to Memorial Avenue, southwest on Memorial Avenue to Fort Avenue continuing northeast on said road to its intersection with Rutherford Street, continuing on Rutherford Street southeast to its intersection with Craighill Street, thence southeast on Craighill Street to its intersection with Edley Place, continuing southeast on Edley Place to its intersection with the Norfolk Southern Railway tracks, south along the said tracks to a railroad intersection, continuing southeast along Norfolk Southern Railway tracks to their

intersection with the southeastern corporate limits of the city; thence northeast along the corporate limits of the city to the point of beginning. They also encompass an area of the city that begins at the intersection of Lakeside Drive and Breckenbridge Street, thence west along Lakeside Drive to its intersection with Blackwater Creek, southwest along Blackwater Creek to an unnamed tributary creek, southeast along said tributary to a point of intersection with College Street, thence northeast along College Street to its intersection with Westwood Avenue, continuing southeast on Westwood Avenue to its intersection with Thomas Road, thence northeast along Thomas Road to its intersection with Brevard Street, continuing northwest along Brevard Street to its intersection with College Street, thence northeast along College Street to its intersection with Vernon Street, continuing southeast along Vernon Street to its intersection with College Drive, thence north along College Drive to its intersection with Breckenbridge Street, continuing northwest along Breckenbridge Street to the point of beginning.

The areas of the city described above that were previously designated as rehabilitation or conservation area by resolutions adopted by the city council on September 12, 1978, October 23, 1979, January 13, 1981 and October 10, 1989 shall keep such designations. The remaining areas of the of the city that are described above are hereby designated as conservation areas.

Sec. 11-62.3. Registration of rental property required.

(a) No owner, managing agent, or other person in control of any dwelling unit located in the areas covered by this division shall make such property available as rental property until said dwelling unit shall have been registered with the building official prior to occupancy. The owner or agent shall certify on a registration form provided by the building official that he/she has been made aware of the minimum habitable standards as outlined in Part III of the Virginia Uniform Statewide Building Code, Maintenance of Existing Structures and that the rental property to be registered meets these standards and is in compliance with these provisions and all other applicable codes, standards and ordinances. Receipt of this certification shall be evidenced by a certificate of registration issued by the building official and to be displayed in the rental unit.

(b) Except in the case of an emergency involving a threat to life and property, as determined by the building official, no electric power company or gas company shall commence electrical or gas service to a dwelling or dwelling unit subject to this division, or continue service unless or until a valid certificate of registration has been issued for such property.

Sec. 11-62.4. Notice by owner, etc.

(a) On or before January 1 of each year, and within sixty (60) days of the transfer of ownership or a change in the managing agent of any rental dwelling unit, the owner or managing agent, or a duly authorized representative acting on behalf of the owner or managing agent, shall furnish the department of community planning and development, in writing, with a registration renewal form provided by the building official for all rental properties that they own or manage in those areas of the city that are covered by this division.

(b) No owner, managing agent, or other person in control of any dwelling unit located in the areas covered by this division shall continue to make such property available after January 1 of each year as rental property until said dwelling or dwelling unit shall have been registered with the building official. The owner or agent shall certify on a renewal registration form provided by the building official that he/she has been made aware of the minimum habitable standards as outlined in Part III of the Virginia Uniform Statewide Building Code, Maintenance of Existing Structures and that the rental property to be registered meets these standards and is in compliance with these provisions and all other applicable codes, standards and ordinances. Such receipt of this certification compliance shall be evidenced by a certificate of registration issued by the building official to be displayed in the rental unit.

(c) In the event the building official furnishes the owner or managing agent with information forms requesting certain information regarding rental properties, the owner or managing agent, or a duly authorized representative acting on behalf of the owner or managing agent, shall complete such forms and return them to the building official within the designated time period.

(d) It shall be a violation of this division for an owner or managing agent to fail or refuse to register any rental dwelling unit with the department of community planning and development or to provide false or misleading information.

Sec. 11-62.5. Inspection of rental properties.

(a) The building official shall cause periodic inspections to be made of dwelling units located in those areas of the city covered by this division to ensure compliance with this division. After such inspection, the owner and the managing agent, if any, will be provided with a list of any violations found and the date by which such violations must be corrected. The failure to correct such violations within the designated time period shall constitute a violation of this division and also may result in revocation of the certificate of registration or certificate of compliance.

(b) Upon determination that the dwelling unit is in compliance with Part III of the Virginia Uniform Statewide Building Code, Maintenance of Existing Structures and all other applicable codes, standards and ordinances, a certificate of compliance will be issued to the owner or managing agent.

(c) Periodic inspections for a specific property under this section shall not occur more than once each calendar year.

(d) Nothing in this division shall prohibit an inspection of any rental dwelling unit for a possible violation of the Virginia Uniform Statewide Building Code pursuant to a complaint.

Section 11-62.6. Code enforcement fees.

There shall be a code enforcement fee ~~paid~~ annually to ~~accompany~~ cover the cost of the registration and periodic inspection of each dwelling unit located in those areas of the city covered by this division. ~~If~~ When an inspection is performed as a result of a periodic inspection or a complaint, there shall be no additional code enforcement charge for this inspection. In the event any repairs or corrections are deemed necessary and a second inspection is required, there shall be no additional code enforcement charge for the second follow-up inspection. In the event a third or subsequent inspection is required, the owner shall be charged a reinspection fee for each inspection of a dwelling unit. The code enforcement and reinspection fees will be as ~~determined~~ established by city council from time to time by resolution and a copy of the schedule of fees will be kept in the office of the inspections division of community planning and development and shall be available for review upon request. No certificate of compliance shall be issued until all ~~inspection~~ code enforcement fees have been paid and all violations have been corrected.

Sec. 11-62.7. Entry.

For the purpose of enforcing provisions of this division, the director of the department of community planning and development, or his duly authorized agent, shall have the right to inspect any dwelling or dwelling unit within designated areas identified in Section 11-62.2 of this division at any reasonable time. No inspection shall be conducted without the consent of the tenant, occupant, property owner or managing agent (if the property owner or managing agent have reserved a right of re-entry in order to

inspect the premise) or pursuant to a duly issued administrative inspection warrant or as authorized by other lawful means. In the event the director of community planning and development, or his duly authorized agents shall be denied access to a dwelling or dwelling unit, he or she may apply for an administrator search inspection warrant in order to gain access to the premises. It shall be a violation of this division for any owner, managing agent, tenant, or other person, to deny the director of community planning and development, or his duly authorized agent, access to any dwelling or dwelling unit within the areas covered by this division after the director of community planning and development, or his duly authorized agent have obtained an administrative inspection warrant for such dwelling or dwelling unit.

Sec. 11-62.8. Permits.

The owner is responsible for complying with all permit and licensing requirements required by the Virginia Uniform Statewide Building Code and other ordinances in effect for the City of Lynchburg.

Sec. 11-6.9. Violations.

(a) It shall be unlawful for any owner to fail to comply with the requirements contained in this division.

(b) Any person failing to comply with the requirements of this division shall be punishable by a fine of not more than \$2,500. Each day such violation continues shall constitute a separate punishable offense.

(c) If any violation remains uncorrected at the time of conviction, the court shall order the violator to abate or remedy the violation and to bring the property into compliance with the Uniform Statewide Building Code. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within six (6) months of the date of conviction. Each day during which the violation continues after the court-ordered abatement period has ended shall constitute a separate offense.

Sec. 11-62.10. Enforcement.

(a) The building official and his authorized agents are hereby empowered to enforce all of the provisions of this division, to act pursuant to the authority contained herein and to perform all the duties required thereby.

(b) The building official may establish such administrative procedures as may be necessary for the administration and enforcement of this article.

Sec. 11-62.11. Temporary waiver.

(a) Any owner or managing agent whose rental property is inspected and found not to be in compliance with the code may petition the building official, in writing, for a temporary waiver of compliance. The petition shall be on a form provided by the building official and shall contain the information therein requested and which may be reasonably necessary to its decision, and shall include a written statement signed by the applicant, acknowledging the actions needed, specifying the anticipated date of beginning and completion of the work, and if known, the name of the person or company that will perform the work. If the building official finds that:

(1) The delay in the correction of the violation is reasonable, taking into the consideration the availability of qualified persons to do the work and the current work load; and

(2) The work can be reasonably undertaken and completed while the premises are occupied or that appropriate provision has been made for housing the tenant elsewhere when the dwelling or dwelling unit will not be habitable because of the work of correcting violations; the building official may issue a temporary waiver of compliance which will allow a reasonable period of time to achieve compliance. This period shall not be less than thirty (30) days nor more than sixty (60) days. The applicant shall, on or before such date, request a reinspection and pay any registration fee that may be required by Section 11-62.6 of this division.

(b) No waiver granted under this section shall be valid unless in writing and signed both by the building official or his designee and the applicant.

Sec. 11-62.12. Severability.

The provisions of this division are intended to be severable, and if any such provision be deemed or adjudged to be invalid or unenforceable, the remaining portions of this division shall remain in full force and effect with their validity unimpaired.

2. That this ordinance shall become effective on October 1, 2003.

Adopted:

Certified:

Clerk of Council

153LOrd

Resolution

WHEREAS, Section 36-105 of the Code of Virginia authorizes localities to levy fees to defray the cost of administering and enforcing the Uniform Statewide Building Code.

NOW, THEREFORE, BE IT RESOLVED that in order to defray the cost of administering and enforcing the Uniform Statewide Building Code the Lynchburg City Council hereby establishes the following revised code enforcement fees to be effective October 1, 2003

CP&D - Inspections - Code Enforcement Fee Schedule

Type Permit	Total Valuation (1)	Fee (2)
Building, Repair, Renovation, Electrical Mechanical, Gas, Plumbing, Elevator (new).	\$1 to \$1000	\$40
	\$1001 to \$50,000	\$40 for the first \$1000 plus \$5 for each additional thousand or fraction thereof, to and including \$50,000.
	\$50,001 to \$100,000	\$285 for the first \$50,000 plus \$4 for each additional thousand or fraction thereof, to and including \$100,000.
	\$100,001 to \$500,000	\$460 for the first \$100,000 plus \$3 for each additional thousand or fraction thereof, to and including \$500,000.
	\$500,001 and up	\$1660 for the first \$500,000 plus \$2 for each additional thousand or fraction thereof.

Plan Review	When the valuation of the proposed construction exceeds \$1000 and a plan is required to be submitted by the Building Official, a plan checking fee shall be paid to the Inspections Division at the time of submitting plans and specifications for checking. The plan checking fee shall be equal to one-tenth (10%) of the building permit fee as shown in this fee schedule. The plan checking fee is in addition to the building permit fee.
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Permit Cancellation Fee	A permit may be cancelled and a refund requested if no work has started on the project. An inspection of the site is required to verify this. A permit cancellation fee of \$40 is required to cover cost of the administrative costs involved with issuing the permit and for the inspection of the site. Plan review fees will not be refunded after a review is complete.
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Manufactured Housing	Single-wide	\$75.00
	Double-wide	\$100.00

Existing Elevators Must be inspected by VA state qualified elevator inspector every six (6) months	Administrative Fee (per elevator every six months)	\$42.00
Elevator Inspection by City Inspector (if required)		\$75.00 per elevator
Elevator Retrofit		\$35.00 per elevator

Tent & Membrane Structures over 900 sqft.	\$50.00
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Rental Property Code Enforcement Fee	Annual fee due on or before January 1st of each year	\$18.00 per rental dwelling unit in designated areas
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Reinspection Fee	\$25.00
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CP&D Inspections - Code Enforcement Fee Schedule (p2)

Demolition Permit	Residential	\$250.00
	Commercial	\$400.00

Moving Fee	\$100.00
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Asbestos Removal Permit	\$30.00
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Amusement Devices	Fees for amusement devices are governed and regulated by the Virginia Amusement Device Regulations.	
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Signs Permit fee for installation of new signs is based on the total square footage per sign	0 - 50 square feet	\$50.00 per sign
	50 square feet and over	\$100.00 per sign
	Temporary Signs & Banners	\$25.00 per sign or banner

Board of Building Code Appeals Application for appeal from a decision of the Building Official or Fire Marshal.	\$200.00 filing fee
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Penalties	Any person commencing work on a building, structure, electrical, gas, mechanical, or plumbing system before obtaining the necessary permits shall be subject to the penalties described in Title 36, Chapter 6, Section 106 of the Code of Virginia (emergency repairs excluded)	
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Waiver of Code Enforcement Fees	Any of the code enforcement fees may be waived for a business which is designated as a technology business and which business locates in either of the city's technology zones on or after July 1, 2002. The city's director of economic development, after consultation with the Lynchburg Industrial Development Authority, will determine which, if any, code enforcement fees will be waived.
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(1) Determination of Total Valuation. For purposes of determining fees under the provisions of Chapter 11, Section 288 (a), Building Permit Fees, the total valuation shall be the greater of the actual contract price submitted on the permit application or an applicable amount based on the total square footage of the structure to be built multiplied times the square foot cost data prescribed on the Building Valuation Data Table which is attached and is part of this fee schedule.

"Total Cost of Construction" means the actual cost incurred by the owner, all contractors, subcontractors, and other parties for labor, material, equipment, profit, and incidental expenses for the entire project. This does not include the cost of design services unless those services are included in a construction contract.

(2) 1% Levy. Local building departments are required to collect a 1% levy of fees charged for building permits issued under the USBC and transmit it quarterly to the Virginia Department of Housing and Community Development (DHCD) to support training programs of the Virginia Code Academy.

CP&D Inspections - Code Enforcement Fee Schedule

Building Valuation Data Table

For Use in Determining Total Valuation for Building Permit Fee Calculations

Occupancy	Type of Construction								
	I-A	I-B	II-A	II-B	III-A	III-B	IV	V-A	V-B
Assembly									
Theaters									
- Good	122	118	78	76	85	81	85	81	77
- Average	92	90	55	53	61	57	62	58	54
Nightclubs & Similar Uses									
- Good	107	107	81	79	88	84	89	84	80
- Average	80	80	61	59	69	65	70	65	61
Lecture Halls, recreation centers, terminals, restaurants other than night-clubs									
- Good	107	107	81	79	88	84	89	84	80
- Average	80	80	61	59	69	65	70	65	61
Churches									
- Good	126	121	88	86	101	97	102	80	91
- Average	92	89	65	63	73	69	74	69	65
Auditoriums									
- Good	130	125	64	62	100	96	100	65	62
- Average	95	92	44	42	71	67	72	45	42
Business									
Office									
- Good	104	101	72	70	80	76	81	77	73
- Average	79	76	50	48	58	54	59	55	52

Research/Engineering									
- Good	61	59	49	46	54	50	55	50	47
- Average	46	44	34	32	39	35	40	36	32
Service Station									
- Good	104	100	81	79	83	79	83	69	65
- Average	94	90	67	65	69	65	70	58	54
Educational									
School									
- Good	103	103	79	77	85	81	86	83	79
- Average	80	80	60	58	66	62	67	64	60
Factory-Industrial									
Factory - Light Mfg									
- Good	39	37	34	31	38	35	39	35	31
- Average	27	25	24	22	29	25	30	27	23
Hazardous									
Hazardous - Sprinkler System Included									
- Good	41	39	35	33	40	36	41	37	33
- Average	29	27	26	24	31	27	32	28	24

Occupancy	Type of Construction								
	I-A	I-B	II-A	II-B	III-A	III-B	IV	V-A	V-B
Institutional									
Convalescent Hospital									
- Good	128	124	88	86	96	N/P (1)	97	93	N/P (1)
- Average	105	103	68	66	75	N/P (1)	75	72	N/P (1)
Hospital									
Good	153	150	88	86	129	N/P (1)	129	122	N/P (1)
- Average	123	121	68	66	102	N/P (1)	103	98	N/P (1)
Mercantile									
Department Stores									
- Good	88	86	56	54	74	70	75	59	55
- Average	68	66	42	40	61	57	61	46	42
Mall Stores									
- Good	101	101	66	64	73	69	74	70	66
- Average	82	82	56	52	60	56	61	57	53
Mall - Concourse									
- Good	79	79	56	54	58	54	59	58	54
- Average	62	62	43	41	45	41	46	45	41
Retail Store									
- Good	70	68	56	54	61	57	61	59	55
- Average	55	53	42	40	47	43	48	46	42
Residential									
Apartments									
- Good	83	80	62	50	69	65	70	65	61
- Average	65	63	48	45	53	49	54	50	46
Dormitories									
- Good	98	96	76	74	83	79	83	77	74
- Average	77	75	58	56	64	60	64	60	56
Homes for Elderly									
- Good	99	97	81	79	86	83	87	84	80
- Average	78	76	61	59	67	63	68	65	61
Hotel									
- Good	104	102	68	65	88	84	89	84	80
- Average	82	80	50	48	74	70	75	71	67

Motel									
- Good	104	102	68	65	72	68	73	70	66
- Average	82	80	50	48	54	50	55	52	48
Single Family Residence									
- Good	89	86	69	67	76	72	76	70	66
- Average	67	65	50	48	55	51	56	52	48
Storage									
Auto Parking Structure									
- Good	36	34	N/D (2)	N/D (2)	N/D (2)	N/D (2)	N/D (2)	N/D (2)	N/D (2)
- Average	28	27	22	20	N/D (2)	N/D (2)	N/D (2)	N/D (2)	N/D (2)
Repair Garage									
- Good	47	45	37	35	45	41	46	40	36
- Average	35	33	27	25	34	30	35	31	27
Warehouse									
- Good	47	45	31	29	36	33	37	34	30
- Average	35	33	22	20	27	23	28	25	21

Occupancy	Type of Construction								
	I-A	I-B	II-A	II-B	III-A	III-B	IV	V-A	V-B
Utility & Miscellaneous									
Private Garage									
- Good	36	34	35	33	42	38	43	39	35
- Average	28	27	28	25	34	30	34	31	27
Greenhouse									
- Good	N/D (2)	N/D (2)	N/D (2)	11.81	N/D (2)	N/D (2)	N/D (2)	N/D (2)	5.65
- Average	N/D (2)	N/D (2)	N/D (2)	5.48	N/D (2)	N/D (2)	N/D (2)	N/D (2)	3.68

Notes:

1. N/P - Not permitted by code.
2. N/D - Insufficient data to determine average cost.
3. Unfinished basements - \$11.81/sqft.
4. For sprinklered buildings in other than hazardous occupancies, add \$1.75/sqft.
5. In Type II, III, and V, add \$41,000 per elevator.
6. A good building will normally have some components which are only average, but many will be better than average.
A good building is well insulated to utility standards, packaged or zoned air conditioning; has more than the minimum code required plumbing fixtures, and lighting and electrical outlets, with good quality fixtures, interior and exterior finishes and carpets.
7. An average building has minimum model energy code insulation levels, with a forced air system, contains the minimum code required plumbing fixtures, lighting, electric outlets; and has average quality interior and minimum carpet.

Adopted:

Certified:

Clerk of Council



The City of Lynchburg, Virginia

CITY HALL, LYNCHBURG, VIRGINIA 24505 • (434) 847-1310
FAX (434) 847-9049

OFFICE OF THE CITY ATTORNEY

WALTER C. ERWIN, III
CITY ATTORNEY

JOYCE M. COLEMAN
SENIOR ASSISTANT CITY ATTORNEY

ELEANOR A. PUTNAM DUNN
ASSISTANT CITY ATTORNEY

GLADYS L. YATES
ASSISTANT CITY ATTORNEY

August 21, 2003

To The Honorable City Council
Lynchburg, Virginia

Re: Rental Property Inspection Program

Dear Council:

At its September 9th meeting City Council will consider some final revisions to the ordinance implementing a rental property inspection program for certain areas of the City. At the June 24 work session the City Manager advised Council that City staff had met with a number of landlords to discuss the proposed rental property inspection program. The only part of the inspection program that the landlords take issue with is the proposed annual registration fee. The landlords, particularly the owners of multi-unit facilities, are opposed to an annual registration fee that is based on the number of dwelling units. I have enclosed a copy of the June 24 Agenda Item Summary for Council's information.

As Council is well aware, rental property inspection programs have been a source of controversy during the past year. Legislation was introduced during the 2003 Session of the General Assembly that would have severely limited local governments' ability to implement rental property inspection programs and would have specifically prevented localities from charging an annual registration fee. The proposed legislation was successfully vetoed by the Governor but may be reintroduced in the General Assembly at some future date.

Since the legislation restricting rental property inspection programs was defeated the Virginia Realtors Association has been encouraging landlords to bring lawsuits against localities that have such inspection programs. The Realtors Association has offered to help cover the cost of such lawsuits and is providing the services of a Richmond attorney to assist landlords. The strategy of the Realtors Association is to bring lawsuits in all areas of the state in the hopes that the lawsuits will have more success than the proposed legislation. A lawsuit has already been filed in Williamsburg and Lynchburg has been mentioned as a

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possible location for a lawsuit since it is one of the few localities in Central Virginia that has a rental property inspection program.

During the June 24 work session a Council Member asked if the City's rental inspection program were challenged in court and the City then removed the annual registration fee would such action put an end to the lawsuit? Unfortunately, the answer to that question is "no." The only part of the City's proposed rental inspection program that really upsets the landlords is the annual registration fee. The imposition of an annual registration fee could be the deciding factor that causes the landlords to file suit against the City. However, if a lawsuit is filed I feel certain that it will challenge much more than the annual registration fee. In the Williamsburg lawsuit the landlords are challenging the City's authority to implement any type of rental property inspection program on the basis that such programs violate the Dillon Rule and are discriminatory. I anticipate that any lawsuit filed in Lynchburg would make similar claims.

Once a lawsuit is filed the repeal of the annual registration fee would not put an end to the lawsuit. Any other issues raised by the lawsuit would still have to be litigated. Also, if a lawsuit is filed, in all likelihood the City would be prevented from implementing its rental inspection program while the lawsuit was pending. Unfortunately, it could take several years to litigate this type of case.

If the City believes a rental property inspection program is important to Code enforcement it may wish to consider funding the program from some source other than an annual registration fee since opposition to such a fee could be the deciding factor in determining whether or not a lawsuit is filed against the City. It was for this reason that the Town of Blacksburg decided not to impose an annual registration fee as part of its rental property inspection program. The cost of Blacksburg's program is covered through its general fund.

If any of the members of Council have any questions concerning this matter, please do not hesitate to contact me.

Respectfully,



Walter C. Erwin

Cc: L. Kimball Payne, City Manager
Karl Cooler, Building Code Official

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: June 24, 2003, Work Session

AGENDA ITEM NO.: 2

CONSENT:

REGULAR: X

CLOSED SESSION:
(Confidential)

ACTION:

INFORMATION: X

ITEM TITLE: Rental Inspection Program; Report on Meeting with Landlords

RECOMMENDATION: None at this time.

SUMMARY: Staff met with a number of landlords to discuss the implementation of the revised Rental Inspection Program. In general, the landlords understand the purpose of the program and support its goals. While there are minor concerns about program administration and some doubts about the ultimate effectiveness, there is considerable disagreement with the way that the program will be paid for. The landlords argue that there is no authority in the State Code to charge fees for registration. Staff respectfully disagrees. Beyond that, the landlords believe that it is inappropriate to charge the landlords for a program that, they argue, is intended to provide a broad community benefit through the improvement of housing stock, property values and neighborhoods. They suggest that funds from the program should come more appropriately from General Fund revenues.

As an alternative, it was suggested that the City should institute civil penalties for code violations and use the resulting fines to fund the program. Karl Cooler and Walter Erwin have been looking into this option and can brief Council on the alternatives if that is desired.

Finally, the landlords expressed the strong feeling that they, as a group, were being "picked on" due to problems from a few less scrupulous landlords. They pointed to the rental inspection program, the elimination of trash service to multi-unit rental complexes, and the new requirement that utility bills be in the landlord's name as three recent examples as the City's negative attitude toward landlords and rental property.

PRIOR ACTION(S): Adoption of a revised Rental Inspection Program, February 2003; reaffirmation of intent to implement program May 2003

FISCAL IMPACT: \$65,000 first year costs; present plan is to cover this cost through an \$18/rental dwelling unit annual fee.

CONTACT(S): Kimball Payne, Walter Erwin, Karl Cooler

ATTACHMENT(S): City Code Excerpt re Rental Inspection Program

REVIEWED BY: lkp